

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Case No. 15-CR-24 (BMC)

V.

Brooklyn, New York

April 15, 2015

RUDY NEFTALI PINEDO CARIAS,

Defendant.

* * * * *

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE JAMES ORENSTEIN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:

HIRAL D. MEHTA, ESQ.
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United States Attorney's Office
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For the Defendant:

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Certified Interpreter:

MS. MARISTELA VERASTEGUI

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1 (Proceedings commenced at 3:09 p.m.)

2 (Interpreter previously sworn, interprets proceedings as
3 follows:)

4 THE CLERK: Criminal cause for pleading, *U.S.A.*
5 *versus Rudy Pinedo Carias*, Docket No. 15 Criminal 24.
6 Counsel, please state your appearances for the record
7 starting with the government.

8 MR. MEHTA: Good morning, Your -- I'm sorry, good
9 afternoon, Your Honor. Hiral Mehta, for the United States of
10 America. I'm joined with Ms. Moore from our -- intern at the
11 office.

12 THE COURT: Good afternoon to you both.

13 MR. KAMDANG: Good afternoon, Your Honor. Len
14 Kamdang on behalf of Rudy Pinedo Carias, who is with me.
15 Also seated at counsel table is Maristela Verastegui, who is
16 a court certified interpreter previously sworn.

17 THE COURT: Good afternoon to all of you. Mr.
18 Pinedo, with the assistance of the interpreter, are you able
19 to understand me so far?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: If you have any difficulty
22 understanding me, let me know. Will you do that, please?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. And, Mr. Kamdang, I understand
25 your client wishes to enter a plea of guilty to Count 1 of

1 the indictment pursuant to an agreement with the government?

2 MR. KAMDANG: Yes, Your Honor.

3 THE COURT: All right. Mr. Pinedo, if you're going
4 to plead guilty to a crime, there's some things I must
5 explain to you and some questions I must ask. Your answers
6 must be truthful, so I'm going to ask you to stand up for a
7 moment so that you can be sworn in.

8 (The defendant is sworn.)

9 THE COURT: All right. Thank you, sir. Now --

10 THE DEFENDANT: Thank you.

11 THE COURT: Now that you're sworn to tell the
12 truth, Mr. Pinedo, it's important that you tell the truth.
13 If you were deliberately to lie in response to any of my
14 questions, you can face additional criminal charges for
15 perjury. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: So it's very important that you
18 understand my questions. If you need me to repeat or explain
19 anything, just let me know. Will you do that, please?

20 THE DEFENDANT: Yes.

21 THE COURT: And if you need time to confer with
22 your attorney, let me know that and I'll give you as much
23 time as you like. Will you do that, please?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Now, I've got a couple of

1 documents that appear to have your signature on them.
2 There's a one page referral order and -- or a consent form --
3 and a multiple page document entitled plea agreement. Could
4 you take a look at both of them and let me know if that is
5 your signature on those documents?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did you read each of those documents or
8 have them translated for you and did you understand them
9 before you signed both of them?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. I'll go into each of those
12 documents in a -- in a little more detail in a few moments.
13 But first I want to make sure that you're competent to
14 proceed today. So tell me, please, how old are you?

15 THE DEFENDANT: Forty-four years old, Your Honor.

16 THE COURT: How far did you go in school?

17 THE DEFENDANT: Intermediate.

18 THE COURT: How --

19 THE DEFENDANT: Well, it's what they call basic or
20 intermediate. I reached the third grade.

21 THE COURT: Okay. How old were you when you left
22 school?

23 THE DEFENDANT: When I left school?

24 THE COURT: About how old?

25 THE DEFENDANT: I was about 18 years old when I

1 stopped studying.

2 THE COURT: I see. Okay. Are you now, or have you
3 recently been under the care of a doctor or a psychiatrist
4 for any reason?

5 THE DEFENDANT: Was I seen by a them?

6 THE COURT: Yes. Well, are you -- are you
7 receiving any kind of medical or psychiatric care?

8 THE DEFENDANT: No.

9 THE COURT: Okay. In the last 24 hours, have you
10 had any pill, or drug, or medicine, or alcohol of any kind?

11 THE DEFENDANT: No, sir.

12 THE COURT: Have you ever been hospitalized or
13 treated in any way for addiction or substance abuse problems?

14 THE DEFENDANT: No, sir.

15 THE COURT: Is your mind clear right now?

16 THE DEFENDANT: I'm kind of nervous, but yes.

17 THE COURT: Okay. I certainly understand being
18 nervous. You know, I'm really just trying to figure out if
19 you're having any difficulty understanding what's going on
20 and understanding, you know, what I talk to you about. Any
21 problems there?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. And, Mr. Kamdang, have you
24 discussed the guilty plea with your client?

25 MR. KAMDANG: Yes, Your Honor.

1 THE COURT: And in your view, does he understand
2 the rights that he would waive by pleading guilty?

3 MR. KAMDANG: Yes.

4 THE COURT: Do you have any reason to question your
5 client's competence to proceed today?

6 MR. KAMDANG: No.

7 THE COURT: All right. Now, Mr. Pinedo, what --
8 let's talk first about this one page consent form that you
9 signed. I want you -- I'm what's known as a magistrate
10 judge. Your case is assigned to a higher ranking judge named
11 Judge Cogan.

12 The most important difference for today's purpose
13 is that if you are convicted of a crime in this case, it's
14 Judge Cogan, not me, who's going to decide what your sentence
15 should be. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: So for that reason, you might prefer to
18 have Judge Cogan listen to your plea in person, and you have
19 the right to do it that way.

20 If that's what you prefer, we'll find a time when
21 Judge Cogan is available and there will be no harm that comes
22 to you for making that decision. Do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. If you understand that you have
25 that right and you're willing to waive it, I will listen to

1 your plea today. We're making a recording of everything
2 that's being said here, and Judge Cogan will read a
3 transcript of today's proceeding before he decides whether to
4 accept your plea and before he decides what your sentence
5 should be. Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And are you willing to waive your right
8 to have Judge Cogan conduct today's proceeding and instead
9 proceed before me?

10 THE DEFENDANT: Yes. Yes, sir.

11 THE COURT: Okay. Is that what you intended by
12 signing this consent form?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Then let's talk next about
15 the charge in the case. I want to be sure you understand
16 what the government would have to prove to convict you of the
17 offense.

18 The -- Count 1 of the indictment accuses you of a
19 crime described as importation of heroin. To -- to prove you
20 guilty of that offense, the government would have to prove
21 several facts beyond a reasonable doubt.

22 It would have to prove that you brought something
23 into the United States from a place outside of the United
24 States. They'd have to prove that the substance you brought
25 in included heroin. They'd have to prove that you did this,

1 you brought this heroin into the United States knowingly and
2 intentionally, and not as the result of some sort of accident
3 or mistake.

4 They'd have to prove that you brought in this
5 heroin within the Eastern District of New York, which is a
6 geographical area that includes Kennedy Airport. And they'd
7 have to prove that you did so on or near the date mentioned
8 in the indictment, January 10th of this year.

9 Do you understand all that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And, Mr. Mehta, have I omitted or
12 misstated any of the essential elements of the offense?

13 MR. MEHTA: No, Your Honor.

14 THE COURT: All right. So, Mr. Pinedo, do you feel
15 that you understand what the government would have to prove
16 to convict you of this offense?

17 THE DEFENDANT: I'm sorry. I didn't understand
18 that last part.

19 THE COURT: All right. I just went through the
20 different facts that the government would have to prove
21 before you could be found guilty of the offense charged in
22 Count 1. I just want to make sure you feel that you
23 understand what the government would have to prove to convict
24 you of the offense. Do you feel that you do?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. Now, you have the right to plead
2 not guilty and make the government prove all of those facts.
3 If you plead not guilty, under our constitution, you'll be
4 entitled to a speedy and public trial by a jury with the
5 assistance of counsel on that charge. Do you understand
6 that?

7 THE DEFENDANT: Yes.

8 THE COURT: And since you can't afford private
9 counsel, the Court has appointed Mr. Kamdang to represent you
10 and he will continue to represent you at every stage of this
11 case.

12 If you want a trial, he'll represent you at the
13 trial. If you're found guilty, he'll represent you at
14 sentencing. If you want to challenge your conviction on
15 appeal, he'll represent you for that. And if, for any
16 reason, Mr. Kamdang is unavailable, the Court will appoint
17 another lawyer to continue representing you, again, at no
18 cost to you. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Now, at a trial, you would be presumed
21 innocent, and the government would have to overcome that
22 presumption and prove your guilt beyond a reasonable doubt.
23 You would not have to prove your innocence. If the
24 government failed to prove your guilt beyond a reasonable
25 doubt, the jury would have a duty to find you not guilty. Do

1 you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Also at the trial, the government would
4 have to bring its witnesses to court, so that they could
5 testify in your presence. Your attorney would have the right
6 to cross-examine those witnesses. He could object to any
7 evidence that the government tried to offer against you. He
8 could offer evidence in your behalf if he thought that there
9 was evidence that might assist you. And your lawyer could
10 compel witnesses whom you wish to call to appear at the
11 trial. Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Also at the trial, you would have the
14 right to testify in your own behalf if you wish to do so, but
15 you couldn't be forced to be a witness at your trial. And
16 that's because under our constitution, no one can be forced
17 to testify against himself.

18 So if you decided to go to trial, but decided not
19 to testify, the judge would tell the jurors that they must
20 not hold your silence against you when considering their
21 verdict. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Now, if you plead guilty and if based
24 on my recommendation the Court accepts that plea, you'll be
25 giving up your right to a trial and these other rights that

1 we've been discussing. There won't be a trial. You will
2 simply be found guilty on the basis of your plea. And you
3 won't ever be able to challenge that finding of guilt. Not
4 in an appeal in this case. Not in some later legal
5 proceeding. Not ever. The question of your guilt will be
6 settled for all time. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You should also understand that if you
9 decide to plead guilty, I'm going to ask you some questions
10 about what you did that makes you think you've committed this
11 offense, because I need to be satisfied that there's a
12 factual basis for your plea.

13 If you decide to answer my questions and tell me
14 that you've committed this crime, you'll be giving up your
15 right not to be a witness against yourself. Do you
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Are you willing to give up your right
19 to a trial and the other rights that I've been telling you
20 about?

21 THE DEFENDANT: I'm sorry. I didn't understand
22 that question.

23 THE COURT: I'll try again. I've just got through
24 explaining the rights that you would have to a trial and the
25 various rights that you would have at a trial. My question

1 is whether you are willing to give up your right to a trial
2 and all of these other rights that come with a trial.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. Now, let's turn next to the plea
5 agreement. It's been marked as Exhibit 1. I have the
6 original document that you signed up here with me. Do you
7 have a copy of the document at the table there?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. If, for any reason, you'd like
10 to look at the original document that you signed, just let me
11 know. I'll bring it down to you. Okay.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. Now, is this document that you
14 signed -- is it, in fact, your agreement with the government?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: I'm not going to go through it page by
17 page or paragraph by paragraph, because I don't want to give
18 you the wrong idea that there's any one part of this document
19 that's more important or less important than any other part.
20 As far as I can tell from looking at the document, it's the
21 whole thing that is your agreement with the government. Is
22 that your understanding as well?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you think the government has made
25 you any promise that is not written down in this document?

1 THE DEFENDANT: No, sir.

2 THE COURT: Okay. Mr. Kamdang, is that your
3 understanding as well?

4 MR. KAMDANG: Yes, Your Honor.

5 THE COURT: And, Mr. Mehta, is it your
6 understanding?

7 MR. MEHTA: Yes, Your Honor.

8 THE COURT: All right. Mr. Pinedo, let's talk next
9 about what could happen at the sentencing. If you're
10 convicted of the crime charged in Count 1, the Court can
11 sentence you to spend up to 20 years in prison. Do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: There's no minimum prison term.
15 However, if you are sentenced to prison, the Court can also
16 sentence you to a term of supervised release of at least
17 three years and possibly as long as the rest of your life.

18 Now, what that means is upon your release from
19 prison, you would be supervised and you'd have to obey
20 certain conditions. And if, during that period of
21 supervision from three years up to the rest of your life, if
22 during that time you were to violate any of the conditions of
23 your release, you could be sentenced to spend up to two more
24 years in prison without credit for the time that you had
25 already been in prison and without credit for the time that

1 you had already been supervised. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: In addition to prison and supervised
4 release, the Court could sentence you to pay a monetary fine
5 of up to \$1 million. Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: On top of everything else that I've
8 already told you about, the Court must order you, as part of
9 the sentence, to pay what's called a special assessment in
10 the amount of \$100. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. And in addition to everything
13 else I've already told you about, you should assume that if
14 you're convicted of the offense charged in Count 1, at some
15 point in the future, possibly after you've served prison
16 time, you will be removed from the United States. Do you
17 understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. Now, do you feel that you
20 understand what could happen in sentencing?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And, Mr. Mehta, have I omitted or
23 misstated any of the sentencing possibilities?

24 MR. MEHTA: No, Your Honor.

25 THE COURT: All right. So let's talk next, Mr.

1 Pinedo, about how the judge will go about choosing a
2 sentence. And the first thing we should talk about in that
3 regard is the federal sentencing guidelines. Have you
4 discussed those with your attorney?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. If you're not sure, you know,
7 about what I'm asking, just ask me for clarification. Okay.
8 I see in the plea agreement that the prosecutor's office has
9 provided its estimate of how the guidelines will be
10 calculated in this case.

11 And I want to be sure that you understand that
12 while the government, I'm sure, tried to be accurate, the
13 estimate that they've provided may be wrong, anything you've
14 gotten from your lawyer on that may be wrong.

15 And that's because the only calculation of the
16 guidelines that's going to count in this case is the one that
17 Judge Cogan will do at the time of your sentencing. Do you
18 understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Now, the way these guidelines work is
21 they help the judge consider sentencing by coming up with two
22 scores. The first score measures the seriousness of the
23 offense. So in a drug case, for example, like this, the
24 amount of drugs involved would affect the score. Do you
25 understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: The second score is based on your
3 personal history. So if you've previously been convicted of
4 an offense, that would affect that second score. Do you
5 understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: With those two numbers, the judge can
8 look up in a table, the box that corresponds to those two
9 scores, and written down inside that box is a range of
10 months. And that's the recommended sentencing guideline
11 range for the case. Do you understand how it works?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, the judge must consider imposing a
14 sentence within that recommended range, but he could also
15 impose a sentence that's more severe or more lenient.

16 And in making that decision, the judge will have to
17 take into account your background and the circumstances of
18 the offense. He'll need to consider respect for the law and
19 the need to impose a just punishment on you. He'll need to
20 consider how best to deter you and others from committing
21 crimes in the future. And he'll have to consider any need
22 that you may have for effective correctional treatment.

23 And he'll take all of those things into account and
24 impose a sentence that he believes to be fair under all of
25 those circumstances. Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: To help the judge make that decision,
3 the Probation Department will write a report. And as they
4 prepare to do so, they'll interview you and you can have your
5 attorney present for that interview. They'll probably talk
6 to the government as well. They may talk to others. And
7 they'll write a report that has information about your
8 background and about what happened in this case.

9 It will have a discussion of the law that applies
10 and it will have a calculation of the sentencing guidelines.
11 And you'll get a chance to read that report and review it
12 with your attorney. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, you may not like what you see in
15 the report. You may think it's inaccurate or unfair in some
16 way. You may think it's got the guidelines wrong. None of
17 that will be a reason to take back your guilty plea. Do you
18 understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Now, what you can do, if you think
21 there's a problem with the Probation Department report, is
22 object to it. Your help -- your lawyer will help you file
23 those objections. The judge will hear arguments from both
24 sides about the objections and he'll rule on them. And then
25 he'll listen to what you and your attorney and the prosecutor

1 and possibly others have to say about what the sentence
2 should be. And then he'll calculate the sentencing
3 guidelines that apply. And then he'll impose a sentence on
4 you. Do you understand that -- that process?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, at any step along the way in that
7 process, you may think that the judge makes a mistake. Maybe
8 he acts unfairly or gets a fact or the guidelines wrong.
9 None of that will be a reason to take back your guilty plea.
10 Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, normally if the judge were to make
13 a mistake of some sort in sentencing you, you would have the
14 right to challenge the sentence on appeal. You couldn't
15 challenge the finding of guilt on appeal, because you're
16 pleading guilty. But you could normally appeal an unlawful
17 sentence. Do you understand that?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: However, I see in your plea agreement
20 and it's on page three in paragraph four, if you want to look
21 for yourself. It says that as long as the Court imposes a
22 prison term of 63 months or less, you will not challenge the
23 sentence.

24 What that means, I think, is that even if you think
25 the judge acts unlawfully in sentencing you, as long as the

1 result is 63 months or less in prison, you will give up your
2 right to challenge that sentence.

3 So my question is whether it's your intention to
4 give up that part of your right to appeal an unlawful
5 sentence. Is that your intention?

6 THE DEFENDANT: I'm sorry. Is that -- well, yes,
7 sir.

8 THE COURT: Okay. Do you have some -- if you're
9 not -- not certain about what I'm asking, I'll be happy to
10 explain it. Do you want -- do you want me to explain it a
11 little more?

12 MR. KAMDANG: One moment, Your Honor.

13 (Pause.)

14 MR. KAMDANG: We're ready to proceed.

15 THE COURT: Okay. So do you -- do you need me to
16 explain that last question again?

17 THE DEFENDANT: No, sir.

18 THE COURT: All right. Do you have any questions
19 that you'd like to ask me about the charge in this case,
20 about your rights, about the sentencing possibilities, or
21 anything at all?

22 THE COURT: No, sir.

23 THE COURT: I'm going to give you one more
24 opportunity to answer that question. The reason I do that is
25 people sometimes change their mind about pleading guilty.

1 And I just want to be sure that you understand that if you
2 come back later and ask to withdraw your plea, the prosecutor
3 is probably going to argue that you shouldn't be allowed to
4 do so, because today you said you understood what you were
5 doing. And he'll probably win that argument.

6 So if there's anything that you need to ask about
7 or think about before making the decision to plead guilty,
8 now is the time to do it, because later it may be too late.
9 Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Is there anything at all that you'd
12 like to ask me?

13 THE DEFENDANT: No, sir.

14 THE COURT: Do you need more time to think about
15 your decision or to discuss it with your attorney?

16 THE DEFENDANT: Well, no. No, sir.

17 THE COURT: Okay. Mr. Kamdang, is there any legal
18 reason why your client should not plead guilty?

19 MR. KAMDANG: No, Your Honor.

20 THE COURT: Mr. Pinedo, are you satisfied with the
21 legal representation you've received up until now?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Then tell me, please, how do you plead
24 to the charge contained in Count 1 of the indictment accusing
25 you of importation of heroin; guilty or not guilty.

1 THE DEFENDANT: Guilty, Your Honor.

2 THE COURT: Are you making this plea of guilty
3 voluntarily and of your own free will?

4 THE DEFENDANT: Yes. I do it voluntarily. Yes.

5 THE COURT: Has anyone threatened or forced you to
6 plead guilty?

7 THE DEFENDANT: No, sir.

8 THE COURT: Aside from the promises that are
9 written down in your plea agreement -- the -- the document
10 you signed -- has anyone made any promise that is causing you
11 to plead guilty?

12 THE DEFENDANT: No, sir.

13 THE COURT: Has anyone made any promise that --
14 about what your sentence will be?

15 THE DEFENDANT: No, sir.

16 THE COURT: Then tell me, please, in your own words
17 what you did that makes you think you've committed this
18 offense.

19 THE DEFENDANT: On January 10th of 2015, I was sent
20 from Guatemala to New York. Like, some people that forced me
21 to bring a substance in my suitcase. It -- it was illegal
22 drugs. I didn't know exactly which kind of drugs. And I was
23 detained at Kennedy Airport at 2:00 a.m.

24 THE COURT: When you say you were forced to do
25 it -- you know, if you were acting out of coercion, you

1 haven't committed an offense. Did you feel that you had the
2 ability to say no to these people who told you to bring drugs
3 to the United States?

4 MR. KAMDANG: The Court's indulgence.

5 THE COURT: Yes.

6 (Pause.)

7 THE DEFENDANT: They -- they were going to pay me
8 money --

9 THE COURT: Okay.

10 THE DEFENDANT: -- to do this. To -- to bring this
11 substance into -- in here.

12 THE COURT: Okay. Did -- did you feel that you had
13 the ability to say no?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Mr. Mehta, is there
16 anything further that you'd like to proffer or have elicit?

17 MR. MEHTA: No, Your Honor.

18 THE COURT: Do you agree with me that the -- well,
19 let me ask you one question. I take it the government would
20 be prepared to prove at trial, if required to do so, that the
21 substance that Mr. Pinedo brought into the United States was,
22 in fact, a controlled substance?

23 MR. MEHTA: Yes, Your Honor. We have a laboratory
24 report we disclosed to Defense counsel showing that the
25 substance was heroin.

1 THE COURT: Okay. Mr. Pinedo, I know you say that
2 you didn't know what drugs that you had, but just to clarify.
3 You believed that what you had was drugs, correct?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. And the government says that
6 they can prove that what you had was, in fact, heroin. Do
7 you have any reason to doubt that they could prove that
8 beyond a reasonable doubt?

9 THE DEFENDANT: No, sir.

10 THE COURT: Okay. And, Mr. Mehta, do you agree
11 that the defendant's allocution satisfies all of the
12 essential elements of the -- of the offense in Count 1?

13 MR. MEHTA: Yes, Your Honor. And I wish to put on
14 the record that John F. Kennedy Airport is the Eastern
15 District of New York.

16 THE COURT: Of course, yes. And is there anything
17 further that you think I should discuss with Mr. Pinedo for
18 purposes of Rule 11?

19 MR. MEHTA: No, Your Honor.

20 THE COURT: Mr. Kamdang, is there anything further
21 you think I should discuss with your client under Rule 11?

22 MR. KAMDANG: No, Your Honor.

23 THE COURT: All right. Well, based on what I've
24 heard today, I find that Mr. Pinedo is competent to
25 proceed --

1 MR. KAMDANG: One moment, Your Honor.

2 THE COURT: Yes. Go ahead.

3 (Pause.)

4 MR. KAMDANG: Mr. Pinedo -- Pinedo Carias would
5 just like to put his remorse on the record.

6 THE COURT: Go ahead, sir.

7 THE DEFENDANT: I'm just very sorry I did this.

8 THE COURT: All right. Thank you for saying that.
9 I know it's a difficult decision and it's a difficult point
10 in your life, and I'm sure it was important to you to say
11 that. Is there anything else you would like me to hear?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. Okay. Well, as I was
14 saying, based on the information I've heard, I find that Mr.
15 Pinedo is competent to proceed.

16 I find that he's acting voluntarily, that his plea
17 did not result from any force, threats, or undisclosed
18 promises. I find that he fully understands his rights, the
19 potential consequences of his plea, and that there's a
20 factual basis for his plea of guilty. I, therefore,
21 respectfully recommend that the Court accept Mr. Pinedo's
22 plea of guilty to Count 1 of the indictment.

23 I'll ask all of you to convene before Judge Cogan
24 for a sentencing proceeding on July 17th at 10:00 a.m. I'm
25 going to return to the government for safekeeping Court

1 Exhibit 1, the original plea agreement.

2 Is there anything further for today, folks?

3 MR. MEHTA: No, Your Honor.

4 MR. KAMDANG: No, Your Honor.

5 THE COURT: Okay. Thank you all. Have a very good
6 day.

7 MR. KAMDANG: Thank you.

8 (Proceedings concluded at 3:37 p.m.)

9

10 I, CHRISTINE FIORE, court-approved transcriber and
11 certified electronic reporter and transcriber, certify that
12 the foregoing is a correct transcript from the official
13 electronic sound recording of the proceedings in the above-
14 entitled matter.

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May 20, 2015

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Christine Fiore, CERT

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Transcriber

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